

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

**Wilmington Savings Fund Society, FSB,
d/b/a Christiana Trust, not individually but
as trustee for Pretium Mortgage Acquisition
Trust**

Plaintiff

vs.

**Christopher M. Thonet;
Dieuwertje W. Thonet;
and Concorde Acceptance Corporation**

Defendants

**Damarsicotta Montessori School;
Christopher M. Thonet, as trustee of The
CT DT LLC Trust, dated May 7, 2020; and
Dieuwertje W. Thonet, as trustee of The CT
DT LLC Trust, dated May 7, 2020**

Parties-in-Interest

CIVIL ACTION NO:

COMPLAINT

**RE:
16 Union Court, Boothbay Harbor, ME
04538**

**Mortgage:
August 23, 2004
Book 3358, Page 174**

NOW COMES the Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, by and through its attorneys, Doonan, Graves & Longoria, LLC, and hereby complains against the Defendants, Christopher M. Thonet, and Dieuwertje W. Thonet, as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant 28 U.S.C. § 1332(a)(1) (Diversity) because the Plaintiff and Defendants are citizens of different states and the matter in controversy exceeds the sum or value of seventy-five thousand and 00/100 (\$75,000.00) dollars, exclusive of interest and costs. Any Court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested

party seeking such declaration, whether or not further relief is or could be sought under 28 U.S.C. § 2201.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the object of this litigation is a Note executed under seal currently owned and held by Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, in which the Defendant, Christopher M. Thonet, is the obligor and the total amount owed under the terms of the Note is Two Hundred Fifteen Thousand Nine Hundred Sixty-Nine and 00/100 (\$215,969.00) Dollars, plus attorney fees and costs associated with the instant action; thus, the amount in controversy exceeds the jurisdictional threshold of seventy-five thousand (\$75,000.00) dollars.
3. Venue is properly exercised pursuant to 28 U.S.C. §1391(b)(2) insofar as all or a substantial portion of the events that give rise to the Plaintiff's claims transpired in Maine and the property is located in Maine.

PARTIES

4. Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust is a corporation with its principal place of business located at c/o Pretium Mortgage Credit Management, 120 South Sixth Street, #2100, Minneapolis. MN 55402.
5. The Defendant, Concorde Acceptance Corporation, is a resident of Dallas, County of Dallas and State of Texas.
6. The Defendant, Christopher M. Thonet, is a resident of Saco, County of York and State of Maine.

7. The Defendant, Dieuwertje W. Thonet, is a resident of Worcester, County of Worcester and State of Massachusetts.
8. The Defendant, Concorde Acceptance Corporation is located at 7929 Brookriver Drive, Suite 500, Dallas, TX 75247.
9. The Party-in-Interest, Damarsicotta Montessori School, is located at 93 Center Street, Nobleboro, ME 04555.
10. The Party-in-Interest, Christopher M. Thonet, as trustee of The CT DT LLC Trust, dated May 7, 2020, is located at 175 Heath Road, Saco, ME 04072.
11. The Party-in-Interest, Dieuwertje W. Thonet, as trustee of The CT DT LLC Trust, dated May 7, 2020, is located at 175 Heath Road, Saco, ME 04072.

FACTS

12. On September 25, 2003, by virtue of a Warranty Deed from Dieuwertje Thonet, which is recorded in the Lincoln County Registry of Deeds in **Book 3165, Page 267**, the property situated at 16 Union Court, City/Town of Boothbay Harbor, County of Lincoln, and State of Maine, was conveyed to Defendants, being more particularly described by the attached Exhibit A.
13. Concorde Acceptance Corporation is a Defendant pursuant to a Mortgage, dated May 30, 2003, in favor of National American Bank, executed by Dieuwertje Thonet, in the amount of \$148,500.00, and recorded in the Lincoln County Registry of Deeds in Book 3071, Page 121, as affected by Assignment of Mortgage, dated June 6, 2003, from National American Bank to Concorde Acceptance Corporation, and recorded in the Lincoln County Registry of Deeds in Book 3205, Page 219, which upon information and belief has been paid in full and should have been properly discharged.

14. On August 23, 2004, Defendant, Dieuwertje W. Thonet, executed and delivered to First Horizon Home Loan Corporation a certain Note under seal in the amount of \$204,000.00. Defendant, Dieuwertje W. Thonet's personal liability is limited and/or extinguished by the Chapter 7 bankruptcy filed which resulted in a bankruptcy discharge. *See* Exhibit B (a true and correct copy of the Note is attached hereto and incorporated herein).
15. To secure said Note, on August 23, 2004, Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, executed a Mortgage Deed in favor of Mortgage Electronic Registration Systems Inc. as nominee for First Horizon Home Loan Corporation its successors and assigns, securing the property located at 16 Union Court, Boothbay Harbor, ME 04538 which Mortgage Deed is recorded in the Lincoln County Registry of Deeds in **Book 3358, Page 174.** *See* Exhibit C (a true and correct copy of the Mortgage is attached hereto and incorporated herein).
16. The Mortgage was then assigned to Federal National Mortgage Association by virtue of an Assignment of Mortgage dated September 20, 2017 and recorded in the Lincoln County Registry of Deeds in **Book 5199, Page 290.** *See* Exhibit D (a true and correct copy of the Assignment of Mortgage is attached hereto and incorporated herein).
17. The Mortgage was further assigned to Federal National Mortgage Association by virtue of a Quitclaim Assignment dated October 13, 2017 and recorded in the Lincoln County Registry of Deeds in **Book 5203, Page 85.** *See* Exhibit E (a true and correct copy of the Quitclaim Assignment is attached hereto and incorporated herein).
18. The Mortgage was further assigned to Federal National Mortgage Association by virtue of a Quitclaim Assignment dated February 20, 2018 and recorded in the Lincoln County Registry of Deeds in **Book 5240, Page 232.** *See* Exhibit F (a true and correct copy of the Quitclaim Assignment is attached hereto and incorporated herein).

19. The Mortgage was then assigned to Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Premium Mortgage Acquisition Trust by virtue of an Assignment of Mortgage dated February 23, 2018 and recorded in the Lincoln County Registry of Deeds in **Book 5240, Page 234**. *See* Exhibit G (a true and correct copy of the Assignment of Mortgage is attached hereto and incorporated herein).
20. On August 3, 2018, the Defendants, Christopher M. Thonet and Dieuwertje W. Thonet, were sent a Notice of Mortgagor's Right to Cure, as evidenced by the Certificate of Mailing (herein after referred to as the "Demand Letter"), as affected by Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's discharge in bankruptcy and, accordingly, this action does not seek any personal liability on the part of the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, but only seeks *in rem* judgment against the property. *See* Exhibit H (a true and correct copy of the Demand Letter is attached hereto and incorporated herein).
21. The Demand Letter informed the Defendants, Christopher M. Thonet and Dieuwertje W. Thonet, of the payment due date, the total amount necessary to cure the default, and the deadline by which the default must be cured, which was thirty-five (35) days from receipt of the Demand Letter, as affected by Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's discharge in bankruptcy and, accordingly, this action does not seek any personal liability on the part of the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, but only seeks *in rem* judgment against the property.. *See* Exhibit H.
22. The Defendants, Christopher M. Thonet, and Dieuwertje W. Thonet failed to cure the default prior to the expiration of the Demand Letter, as affected by Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's discharge in bankruptcy and, accordingly, this

action does not seek any personal liability on the part of the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, but only seeks *in rem* judgment against the property.

23. The Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, is the present holder of the Note pursuant to endorsement by the previous holder (if applicable), payment of value and physical possession of the Note in conformity with 11 M.R.S. § 3-1201, et seq., and *Simansky v. Clark*, 147 A. 205, 128 Me. 280 (1929).
24. The Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, is the lawful holder and owner of the Note and Mortgage.
25. The Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, hereby certifies that all steps mandated by law to provide notice to the mortgagor pursuant to 14 M.R.S.A. § 6111 and/or Note and Mortgage were strictly performed.
26. Damarsicotta Montessori School is a Party-in-Interest pursuant to a Writ of Execution in the amount of \$5,466.98 dated August 19, 2013, and recorded in the Lincoln County Registry of Deeds in **Book 4701, Page 189**, and is in second position behind Plaintiff's Mortgage.
27. Christopher M. Thonet, as trustee of The CT DT LLC Trust, dated May 7, 2020; and Dieuwertje W. Thonet, as trustee of The CT DT LLC Trust, dated May 7, 2020 are Parties-in-Interest, pursuant to a Quitclaim Deed, dated May 7, 2020, and recorded in the Lincoln County Registry of Deeds in **Book 5521, Page 279**, and is in third position behind Plaintiff's Mortgage.

28. The total debt owed under the Note and Mortgage as of May 1, 2021 is Two Hundred Fifteen Thousand Nine Hundred Sixty-Nine and 00/100 (\$215,969.00) Dollars, which includes:

Description	Amount
Principal Balance	\$159,594.80
Late Fees	\$0.07
Escrow Advance	\$11,826.33
Delinquent Interest	\$40,393.83
Corporate Advances	\$7,346.27
Restricted Escrow Balance	\$-3,192.30
Grand Total	\$215,969.00

29. Upon information and belief, the Defendants, Christopher M. Thonet and Dieuwertje W. Thonet, are presently in possession of the subject property originally secured by the Mortgage.

COUNT I – FORECLOSURE AND SALE

30. The Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, repeats and re-alleges paragraphs 1 through 29 as if fully set forth herein.

31. This is an action for foreclosure and sale respecting a real estate related Mortgage and title located at 16 Union Court, Boothbay Harbor, County of Lincoln, and State of Maine. *See* Exhibit A.

32. The Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, is the holder of the Note referenced in Paragraph 14 pursuant to endorsement by the previous holder (if applicable) and physical possession of the aforesaid Note in conformity with Title 11, section 3-1201, et

seq. of the Maine Revised Statutes and *Simansky v. Clark*, 147 A. 205, 128 Me. 280 (1929).

As such, Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, has the right to foreclosure and sale upon the subject property.

33. The Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Pretium Mortgage Acquisition Trust, is the current owner and investor of the aforesaid Mortgage and Note.
34. The Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, are presently in default on said Mortgage and Note, having failed to make the monthly payment due July 1, 2016, and all subsequent payments, and, therefore, have breached the condition of the aforesaid Mortgage and Note, as affected by Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's discharge in bankruptcy and, accordingly, this action does not seek any personal liability on the part of the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, but only seeks *in rem* judgment against the property..
35. The total debt owed under the Note and Mortgage as of May 1, 2021 is Two Hundred Fifteen Thousand Nine Hundred Sixty-Nine and 00/100 (\$215,969.00) Dollars, which includes:

Description	Amount
Principal Balance	\$159,594.80
Late Fees	\$0.07
Escrow Advance	\$11,826.33
Delinquent Interest	\$40,393.83
Corporate Advances	\$7,346.27
Restricted Escrow Balance	\$-3,192.30
Grand Total	\$215,969.00

36. The record established through the Lincoln County Registry of Deeds indicates that there are no public utility easements recorded subsequent to the Mortgage and prior to the commencement of these proceedings affecting the mortgaged premises at issue herein.
37. By virtue of the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's breach of condition, the Plaintiff hereby demands a foreclosure and sale on said real estate, as affected by Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's discharge in bankruptcy and, accordingly, this action does not seek any personal liability on the part of the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, but only seeks *in rem* judgment against the property.
38. Notice in conformity with 14 M.R.S.A. § 6111 and/or Note and Mortgage was sent to the Defendants, Christopher M. Thonet and Dieuwertje W. Thonet, on August 3, 2018, evidenced by the Certificate of Mailing. *See* Exhibit H.
39. The Defendants, Christopher M. Thonet and Dieuwertje W. Thonet, are not in the Military as evidenced by the attached Exhibit I.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Premium Mortgage Acquisition Trust, prays this Honorable Court:

- a) Issue a judgment of foreclosure and sale in conformity with Title 14 § 6322, as affected by Defendants, Dieuwertje W. Thonet and Christopher M. Thonet's discharge in bankruptcy, and accordingly, this action does not seek any personal liability on the part of the Defendants, but only seeks *in rem* judgment against the property;
- b) Grant possession to the Plaintiff, Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Premium Mortgage Acquisition Trust, upon the expiration of the period of redemption;

- c) Impose the applicable time periods for redemption, etc., as reflected in 14 M.R.S.A. § 6322;
- d) Find that while the Defendants, Dieuwertje W. Thonet and Christopher M. Thonet, have no personal liability in this matter, a Judgment of Foreclosure and Sale in this matter can be imposed *in rem* against the property commonly known as and numbered as 16 Union Court, Boothbay Harbor, ME 04538;
- e) Order a discharge of a Mortgage, which upon information and belief, should have been previously discharged, in favor of National American Bank, executed by Dieuwertje Thonet, in the amount of \$148,500.00, and recorded in the Lincoln County Registry of Deeds in Book 3071, Page 121, as affected by Assignment of Mortgage, dated June 6, 2003, from National American Bank to Concorde Acceptance Corporation, and recorded in the Lincoln County Registry of Deeds in Book 3205, Page 219;
- f) For such other and further relief as this Honorable Court deems just and equitable.

Respectfully Submitted,
Wilmington Savings Fund Society, FSB, d/b/a
Christiana Trust, not individually but as
trustee for Pretium Mortgage Acquisition
Trust,
By its attorneys,

Dated: July 28, 2021

/s/John A. Doonan, Esq.
/s/Reneau J. Longoria, Esq.

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